



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NEW YORK 10007

JAMES E. JOHNSON
Corporation Counsel

JOANNE M. McLAREN
Senior Counsel
jmclaren@law.nyc.gov
Phone: (212) 356-2671
Fax: (212) 356-3509

December 18, 2019

BY ECF

Honorable Roanne L. Mann
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Trevor Lucas v. City of New York, et al.
19-CV-03494 (FB)(RLM)

Your Honor:

I am an attorney in the Special Federal Litigation Division of the New York City Law Department, assigned to represent defendants City of New York, Stephen Lalchan, Adam Georg, Jason Fritz, Robert Bracero, Thomas Reo, Daniel Sjoberg, Keith Shine, and Kevin Catalina (collectively, "Defendants") in the above-referenced matter. In response to the Court's Order of December 16, 2019, directing Defendants to produce "on pain of sanctions" files from NYPD and the District Attorney's Office, Defendants write to explain to the Court why they have not yet produced these files and to request additional time for their production. I contacted counsel for Trevor Lucas ("Plaintiff") early this afternoon to ask if they consent to this extension but have not yet had a response.

The claims in this action stem from the arrest of Plaintiff on or about September 16, 2014, and his subsequent prosecution, for conspiracy to commit murder. Plaintiff was one of seventeen alleged SNOW Gang members arrested as part of this conspiracy. Sixteen alleged SNOW Gang members were arrested contemporaneously for their alleged role in a related robbery conspiracy. Several criminal trials ensued. Plaintiff was tried with four other individuals, of whom one was acquitted. Plaintiff and three others tried with him were convicted. On or about November 14, 2018, Plaintiff's conviction was reversed on appeal and the indictment was dismissed. Certain of the other defendants convicted for their role in the conspiracy appealed and were granted new trials. The District Attorney's Office, Queens County, has been preparing for those retrials.

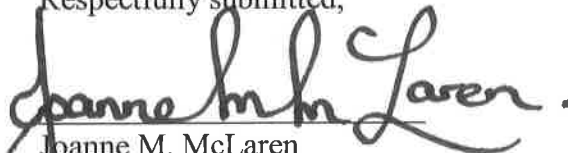
By letter dated December 13, 2019, Plaintiff's counsel, with Defendants' consent, requested additional time to amend the Complaint.¹ The reason cited was Plaintiff's need to review the documents from the Queens County District Attorney's Office, as well as additional NYPD documents. Without affording Defendants the opportunity to be heard, Your Honor ordered that all outstanding NYPD and DA documents be produced by January 3, 2020, on "pain of sanctions."

This Office and the District Attorney's Office have been in regular communication, since the inception of this lawsuit, to discuss this Office's receipt of the relevant files. The District Attorney's Office, until recently, was still ascertaining what it could produce without jeopardizing the upcoming trials. In addition, the files were being used by Assistant District Attorneys to prepare for hearings, held in the last two weeks, on the cases to be retried. Also out of concern for the upcoming retrials, the lead detective in this case has been unable to produce his file to us without the District Attorney's Office's permission.

On December 9, 2019, before issuance of this Court's Order, the District Attorney's Office informed me that it would produce to me underlying files from the ten-week trial resulting in Plaintiff's conviction, and that an assistant district attorney would review the lead detective's file to ensure that it could be produced to this Office. The files involved are voluminous, apparently well in excess of 100,000 pages. The District Attorney's Office finished scanning the materials for us yesterday, and I received them, on 39 disks, this morning. This Office has not yet received the NYPD file, which has not yet been reviewed with the District Attorney's Office.

Defendants will need to review these materials in light of the New York Criminal Procedure Law §160.50 concerns of others implicated in the alleged conspiracy² and the safety concerns of individuals who may be named in the documents we have just received. In addition, Defendants still await the production of the lead detective's file. Because of the volume of materials involved, the fact that the first set of documents was only produced to this Office this morning, and the upcoming holidays, Defendants respectfully request that the Court grant them an extension of time, until February 17, 2020, to complete this review and production.

Respectfully submitted,

A handwritten signature in black ink, reading "Joanne M. McLaren". The signature is fluid and cursive, with a large loop at the end of the last name.

Joanne M. McLaren

cc: Baree Fett, Esq. (by ECF)
Gabriel Harvis, Esq. (by ECF)

¹ Discovery is not set to close until May 8, 2020.

² Documents pertaining to all members of the alleged conspiracy, including those who were not tried with Plaintiff, and those who were not prosecuted at all, are included in the documents which we have just received. Those who were not prosecuted, and those who were acquitted, certainly have rights pursuant to §160.50 which have not been waived, as have, perhaps, those who are being retried.